

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

O.Z. MARTIN,

Plaintiff,

v.

PETRAS, et al.,

Defendants.

No. 2:20-cv-1536 WBS CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983 and California tort law. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 The court is required to screen complaints brought by prisoners seeking relief against a  
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
3 court has conducted the required screening and finds that plaintiff's complaint violates Rule 8 of  
4 the Federal Rules of Civil Procedure which requires that pleadings be short and plain. Plaintiff's  
5 complaint is 29 pages and would be about 75 pages if plaintiff's handwriting approximated  
6 normal font size and spacing. Accordingly, plaintiff's complaint will be dismissed. Plaintiff will  
7 be granted leave to amend, but any amended complaint must not exceed 20 pages with normal  
8 spacing and font size.

9 With respect to plaintiff's claim concerning medical care, plaintiff is informed that denial  
10 or delay of medical care can violate the Eighth Amendment. Estelle v. Gamble, 429 U.S. 97,  
11 104-05 (1976). A violation occurs when a prison official causes injury as a result of his or her  
12 deliberate indifference to a prisoner's serious medical needs. Id.

13 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to  
14 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
15 complaint be complete in itself without reference to any prior pleading. This is because, as a  
16 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375  
17 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no  
18 longer serves any function in the case. Therefore, in an amended complaint, as in an original  
19 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

20 In accordance with the above, IT IS HEREBY ORDERED that:

21 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) is granted.

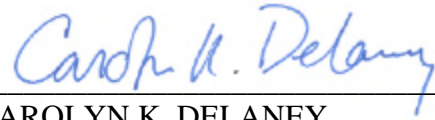
22 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees  
23 shall be collected and paid in accordance with this court's order to the Director of the California  
24 Department of Corrections and Rehabilitation filed concurrently herewith.

25 3. Plaintiff's complaint is dismissed.

26 4. Plaintiff is granted thirty days from the date of service of this order to file an amended  
27 complaint that complies with the requirements of this order, the Civil Rights Act, the Federal  
28 Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must bear the

docket number assigned this case and must be labeled "Amended Complaint." Failure to file an amended complaint in accordance with this order will result in a recommendation that this action be dismissed.

Dated: November 20, 2020



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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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